

The Honorable John H. Chun

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

P. POE 5, and P. POEs 2 through 4 and 6 through 75, individually and on behalf of others similarly situated,

Plaintiffs,

V.

THE UNIVERSITY OF WASHINGTON, a Washington public corporation; ERIN RANCE, Interim Manager for the University's Office of Public Records and Open Public Meetings, in their official capacity,

Defendants.

and

PEOPLE FOR THE ETHICAL
TREATMENT OF ANIMALS, INC., a
Virginia nonstock corporation, and
NORTHWEST ANIMAL RIGHTS
NETWORK, a Washington nonprofit
corporation.

Intervenor-Defendants.

No. 2:24-CV-00170-JHC

TEMPORARY RESTRAINING ORDER

[PROPOSED]

Intervenor-Defendants.

1 Interim Manager for the University's Office of Public Records and Open Public Meetings at the
 2 University of Washington, in their official capacity (the "University of Washington Defendants").
 3

4 The Court, having considered Plaintiffs' Motion, all materials filed in support thereof, any
 5 materials filed in opposition, and the pleadings and papers of record in this matter, hereby FINDS
 6 as follows:

7 1. The University of Washington Defendants have received requests under
 8 Washington's Public Records Act, RCW 42.56, for the disclosure of information relating to
 9 Plaintiffs' service on the University of Washington's Institutional Animal Care and Use Committee
 ("IACUC").

10 2. The University of Washington Defendants have notified Plaintiffs and those
 11 similarly situated that, unless restrained by a court order or other judicial prohibition, they believe
 12 the Public Records Act will likely require the UW to release records relating to Plaintiffs.

13 3. Communications by Defendants relating to the IACUC, to public records requests,
 14 and other relevant communications also contain personally identifying information of Plaintiffs
 15 that identify them as associated with the IACUC.

16 4. On April 3, 2024, this Court issued a Preliminary Injunction in this matter (Dkt
 17 #45).

18 5. Intervenors undertook an interlocutory appeal, and the Ninth Circuit issued a
 19 memorandum opinion on December 4, 2024, reversing the injunction (No. 24-2765, Dkt #39.1).
 20 Plaintiffs filed a Petition for Rehearing En Banc, which the Court of Appeals denied on Tuesday,
 21 January 14, 2025. (No. 24-2765, Dkt #42.1). Accordingly, the parties expect the Court of Appeals'
 22 mandate to issue on Tuesday, January 21, 2025.

23 6. Plaintiffs state their intent file a Motion for Preliminary Injunction, noted pursuant
 24 to a briefing schedule to be agreed between the parties, based upon the following causes of action
 25 from Plaintiffs' Complaint:
 26

1 a. Plaintiffs' claim that the records at issue are exempt from disclosure under
 2 Washington's Public Records act through RCW 4.24.580, an anti-harassment
 3 statute that constitutes an "other statute" exemption from PRA disclosure.

4 7. Plaintiffs have given Defendants, through their counsel, notice of their intent to seek
 5 this Temporary Restraining Order.

6 8. Intervenors do not concede the Court has subject-matter jurisdiction to enter this
 7 TRO, that the findings in this Order have been established by sufficient evidence, or that Plaintiffs
 8 have met the requirements for issuance of a TRO on the merits.

9 9. Intervenors do not oppose the issuance of a TRO that expires March 14, 2025, or
 10 the date of the Court's decision, whichever is later, provided that the current TRO shall not extend
 11 beyond March 28, 2025, without further order of the Court.

12 10. Intervenors will not seek Public Records Act penalties or fees from the University
 13 of Washington while this Temporary Restraining Order remains in effect, in this matter or any
 14 separate one, with respect to records covered by the Temporary Restraining Order, in response to
 15 any pending public records request.

16 11. The University of Washington Defendants do not concede the Court has subject-
 17 matter jurisdiction to enter this TRO, that the findings in this Order have been established by
 18 sufficient evidence, or that Plaintiffs have met the requirements for issuance of a TRO on the
 19 merits.

20 12. The University of Washington Defendants do not oppose the issuance of this TRO.

21 13. If documents and information at issue pertaining to Plaintiffs were to be released on
 22 or after January 21, 2025, due to the issuance of the Ninth Circuit's mandate, it would irreparably
 23 harm Plaintiffs and eliminate any possibility of their requested relief, before this Court has an
 24 opportunity to decide on the merits the issues to be raised by Plaintiffs' Motion for Preliminary
 25 Injunction.

1 14. The materials submitted by Plaintiffs and declarants on their behalf in this matter
 2 establish that Plaintiffs and members of the putative class, due to their association with the IACUC,
 3 face a substantial and ongoing threat of harassment by members of the public who are opposed to
 4 animal research.

5 15. Plaintiffs provide evidence sufficient to conclude, for purposes of this motion, that
 6 harassment directed at Plaintiffs and members of the putative class, based on their association with
 7 the IACUC, likely will increase if they are publicly identified as associated with the IACUC, due
 8 to the disclosure of their personally identifying information.

9 16. Plaintiffs include employees of a research or educational facility involved in animal
 10 research.

12 Based on the foregoing findings, the Court CONCLUDES as follows:

14 17. This Court has jurisdiction and venue over the subject matter and over Defendants.

15 18. The harassment likely to be directed at Plaintiffs and putative class members, if their
 16 personally identifying information were to be disclosed, is potentially sufficient to satisfy the terms
 17 of RCW 4.24.580, making the relevant records exempt from disclosure under Washington's Public
 18 Records Act, RCW 42.56.070(1), and RCW 42.56.540.

19 19. Release of the personally identifying information of Plaintiffs and putative class
 20 members prior to the Court's ruling on the merits of Plaintiffs' Motion for Preliminary Injunction
 21 would not be in the public interest and would substantially and irreparably damage Plaintiffs,
 22 putative class members, and the UW IACUC.

23 20. Under the Ninth Circuit's sliding scale approach, Plaintiffs demonstrate "serious
 24 questions going to the merits" of their claims "and the balance of hardships tips sharply in [their]
 25 favor." *See Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011).

1 21. Defendants received adequate notice of Plaintiffs' Motion for Temporary
2 Restraining Order.

3 22. A Temporary Restraining Order against the University of Washington Defendants
4 is warranted to preserve the status quo, pending a hearing on whether to enter a preliminary and
5 permanent injunction.

6 23. No bond is necessary to protect the rights of Defendants.

7
8 The Court therefore ORDERS:

9
10 24. Plaintiffs' Motion for a Temporary Restraining Order is GRANTED.

11 25. Pending further order of this Court, the University of Washington Defendants are
12 enjoined from disclosing the personally identifying information of Plaintiffs and putative class
13 members, specifically, any current or former member or alternate member of the UW IACUC, in
14 response or in relation to any request under Washington's Public Records Act, whether in
15 Appointment Letters, in communications relating to the Public Records Request, or otherwise, to
16 the extent such disclosure would identify any such individual as associated with the IACUC, on
17 the same terms as the Court's prior preliminary injunction order (Dkt #45), including specifically
18 that the University may release appropriately redacted records after consulting with counsel for
19 Plaintiffs.

20 26. This Temporary Restraining Order shall remain in effect through March 14, 2025,
21 or the date of the Court's decision on Plaintiffs' Motion for Preliminary Injunction, whichever is
22 later, although this TRO shall not extend beyond March 28, 2025, without further order of the
23 Court.

24 27. The bond requirement of Fed. R. Civ. P. 65(c) is inapplicable and is hereby
25 WAIVED.

DATED this _____ day of January, 2025.

JOHN H. CHUN
United States District Judge

Presented by:

GOLDFARB & HUCK ROTH RIOJAS, PLLC

/s/Darwin P. Roberts
Darwin P. Roberts, WSBA No. 32539

925 Fourth Avenue, Suite 3950
Seattle, Washington 98104
Telephone: (206) 452-0260
Facsimile: (206) 397-3062
E-mail: roberts@goldfarb-huck.com

Counsel for Plaintiffs P. Poe 5, *et al.*

TEMPORARY RESTRAINING ORDER - 6
P. POE 5, ET AL. v. UNIVERSITY OF WASHINGTON, ET AL.
NO. 2:24-CV-00170

**GOLDFARB & HUCK
ROTH RIOJAS, PLLC**
925 Fourth Avenue, Suite 3950
Seattle, Washington 98104
(206) 452-0260

1
2 Approved as to form:
3

4 s/ Nancy S. Garland
5 **NANCY S. GARLAND, WSBA #43501**

6 s/ Jessica Creighton
7 **JESSICA CREIGHTON, WSBA #37956**
8 Assistant Attorneys General
Washington Attorney General's Office
University of Washington Division
4333 Brooklyn Avenue NE, 18th Floor
Seattle, Washington 98195-9475
Phone: (206) 543-4150
Facsimile: (206) 543-0779

9
10 E-mail: nancys.garland@atg.wa.gov
jessica.creighton@atg.wa.gov

11
12 Attorneys for Defendants the University of Washington and Erin Rance
13

14
15 **ANGELI & CALFO LLC**
s/ Peter D. Hawkes
Peter D. Hawkes, WSBA #56794
Angeli & Calfo LLC
121 SW Morrison Street, Suite 400
Portland, OR 97204
Tel: 971-420-0220
Fax: 503-227-0880

16
17 Attorneys for People for the Ethical
Treatment of Animals, Inc. and
Northwest Animal Rights Network
18
19

20
21
22
23
24
25
26
TEMPORARY RESTRAINING ORDER - 7
P. POE 5, ET AL. v. UNIVERSITY OF WASHINGTON, ET AL.
NO. 2:24-CV-00170

**GOLDFARB & HUCK
ROTH RIOJAS, PLLC**
925 Fourth Avenue, Suite 3950
Seattle, Washington 98104
(206) 452-0260